

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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**ALLENS, INC.,**  
**Plaintiff, Counter-Defendant,**  
**Third-Party Plaintiff,**

v.

**Case No. 12-C-0749**

**LITTLE LADY FOODS, INC.,**  
**Defendant, Counter-Plaintiff,**

and

**MCCAIN FOODS USA, INC.,**  
**Third-Party Defendant.**

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**ORDER**

On May 1, 2013, plaintiff Allens, Inc., filed a third-party complaint against McCain Foods USA, Inc. On May 30, 2013, Allens noted that McCain had failed to file an answer or otherwise respond to the third-party complaint. The next day, the Clerk of Court entered McCain's default. Allens has moved for a default judgment and requested a hearing to prove its damages. However, the damages that Allens would be entitled to recover from McCain would appear to include any amounts that counter-plaintiff Little Lady Foods, Inc., might eventually recover from Allens in this suit. See Third-Party Complaint ¶ 20. Thus, although McCain's default has been entered, I will wait until Little Lady's claims against Allens have been resolved to schedule further proceedings concerning Allens's request for a default judgment. The motion for default judgment that is currently on file will be denied without prejudice to renewal after Little Lady's claims have been resolved.

Allens should also note that I typically do not hold hearings on motions for default judgments. Rather, I expect the party moving for a default judgment to establish the amount of its damages using affidavits or declarations.

Accordingly, **IT IS ORDERED** that Allens's motion for a default judgment is **DENIED WITHOUT PREJUDICE**.

Dated at Milwaukee, Wisconsin, this 4th day of June 2013.

s/ Lynn Adelman

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LYNN ADELMAN  
District Judge